

DELTA PROTECTION COMMISSION

14215 RIVER ROAD

P.O. BOX 530

WALNUT GROVE, CA 95690

Phone (916) 776-2290

Fax (916) 776-2293

E-Mail: dpc@citlink.net Home Page: www.delta.ca.gov**AGENDA ITEM #10**

January 15, 1998

To: Delta Protection Commission**From:** Margit Aramburu, Executive Director**Subject:** Proposed Conservation Easement from Thomas Luckey for Fern-Headreach Island to the Delta Protection Commission**Background:**

Thomas Luckey has developed a proposal to acquire Fern-Headreach Island with funds from a CALFED Category III grant and to permanently restore the complex to tidal wetlands and riparian habitat (see attached location map). As part of the overall project proposal, Tom Luckey proposes to voluntarily grant a conservation easement over the complex to the Delta Protection Commission.

The language of the conservation easement will be similar to the conservation easement prepared for the MTC State Ranch's 1994 voluntary conservation easement (see attached conservation easement).

Proposed Action:

The Commission should decide if it will accept the conservation easement, subject to final review and approval by the Commission's counsel and the Chairman.

RECORDED AT THE REQUEST OF:

STATE OF CALIFORNIA
DELTA PROTECTION COMMISSION

WHEN RECORDED, MAIL TO:

DELTA PROTECTION COMMISSION
P.O. BOX 530
14219 RIVER ROAD
WALNUT GROVE, CA 95690

STATE OF CALIFORNIA OFFICIAL BUSINESS
Document entitled to free recordation pursuant to Government
Code section 27383

PROJECT: CHANNEL ISLANDS
SHADED RIVERINE HABITAT
COUNTY: SAN JOAQUIN

CONSERVATION EASEMENT

THIS EASEMENT is granted the fifth day of October, 1994,
by MTC STATEN RANCH, a Corporation, hereinafter called GRANTOR,
to the STATE OF CALIFORNIA, acting by and through the DELTA
PROTECTION COMMISSION, hereinafter called COMMISSION.

WITNESSETH:

WHEREAS, GRANTOR is the record owner of that certain
real property hereinafter described in Exhibit "A"; and

WHEREAS, GRANTOR has signed a Memorandum of
Agreement(MOA) with State Lands Commission(STATE LANDS) and
California Department of Fish and Game(CAL FISH AND GAME)
regarding the long term management of a portion of this
property; and

WHEREAS, this Easement is consistent with the terms of
that MOA; and

WHEREAS, a portion of the property has scenic, natural
and aesthetic value in its present state as a natural area; and

WHEREAS, GRANTOR is willing to grant a conservation
easement to COMMISSION over said portion of the property,
thereby restricting and limiting the use of the property; and

WHEREAS, GRANTOR and COMMISSION recognize the scenic, natural and aesthetic value of said portion of the property in its present natural state and have the common desire to preserve the natural character of the property and prevent its use or development for any purpose or in any manner which would conflict with the maintenance of the property in its natural condition; and

WHEREAS, GRANTOR wishes to grant to COMMISSION (GRANTEE) a conservation easement, pursuant to the terms of California Civil Code Section 815 et seq. to protect the present scenic beauty, openness and environmentally sensitive quality by restricting the use and enjoyment of said property (PROPERTY) by GRANTOR through terms, conditions, and covenants herein after set forth.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and restrictions hereinafter set forth, GRANTOR hereby grants and conveys unto COMMISSION, its permitted successors and assigns a perpetual conservation easement on the land described below for the use and maintenance of riparian and wetland habitat (hereinafter referred to as "Wildlife Habitat Areas") with the terms and conditions stated herein. There is included in this Conservation Easement a right of access in favor of COMMISSION Representatives over any and all Wildlife Habitat Areas for the limited purposes of entering the Wildlife Habitat Areas to verify compliance by Grantor with the terms and conditions of this easement and exercising COMMISSION'S rights under this Conservation Easement. Such right of access is subject to prior reasonable notice except in the event of an emergency.

1. The Wildlife Habitat Areas contain 4 islands (23.1+ acres) and are shown in Exhibit "B" as Parcels 069-020-03, 069-020-04, 069-020-05, 069-020-07 of the San Joaquin County Assessor's Map.

2. GRANTOR and COMMISSION agree that GRANTOR may irrigate vegetation and plant native trees or wetland vegetation on the Habitat Areas, provided that any trees and vegetation planted to the Habitat areas shall be only those: (a) native trees or vegetation now or hereafter approved by CAL FISH AND GAME as being consistent with the development and maintenance of Wildlife Habitat Areas; or (b) any other trees or vegetation hereafter approved in writing by COMMISSION.

3. GRANTOR and COMMISSION agree that the provisions of this Conservation Easement are intended to prohibit hunting, public access, and other recreational activities on any of the Wildlife Habitat Areas, and such limitations shall be deemed to be consistent with the objectives and maintenance of the Wildlife Habitat Areas as provided in this Conservation Easement.

4. Except as otherwise permitted in this Conservation Easement or MOA there shall be no depositing of trash, ashes, garbage, waste or any other material on the Wildlife Habitat Areas.

5. Except as otherwise permitted in the Conservation Easement or MOA no building, fence or any other structure of any kind shall be erected on the Wildlife Habitat Areas unless such structure replaces a preexisting structure of similar size bulk and height.

6. This easement is not intended to limit GRANTOR'S participation in other conservation easement programs, including but not limited to the programs designed to create additional wetland or riparian developments or habitat improvements for the benefit of environmentally sensitive plants or animals so long as the proposed program uses are consistent with the terms of this Conservation Easement and MOA.

7. This Conservation Easement is subject to all existing easements and rights of way, specifically including, but not limited to, all rights of reclamation and drainage held by Reclamation District 38 or any successor thereto.

8. COMMISSION acknowledges that this conservation easement does not grant mineral rights and that the exploration, development, and production of oil, gas, and other mineral rights held by GRANTOR or other third parties shall be considered compatible with this Conservation Easement provided there shall be no surface exploration or development operations upon the Wildlife Habitat Areas.

9. This Conservation Easement shall be binding upon, and shall inure to the benefit of GRANTOR and its successors and assigns to the COMMISSION and its permitted successors. COMMISSION may not assign its rights herein, except to CAL FISH AND GAME without GRANTORS prior written approval. Any transfer or assignment of rights consistent with the above limitations, shall require written notice to the other party concurrently with such transfer or assignment.

10. GRANTOR reserves the right to use the Easement lands for all purposes not inconsistent with this easement.

11. In the event a violation of these covenants, conditions or restrictions is found to exist, COMMISSION may institute a suit to enjoin such violation.

12. GRANTEE agrees to monitor to insure compliance with these covenants, conditions or restrictions of this document.

13. COMMISSION does not WAIVE or forfeit the right to take action as may be necessary to ensure compliance with the covenants, conditions and restrictions of this easement by a prior failure to act.

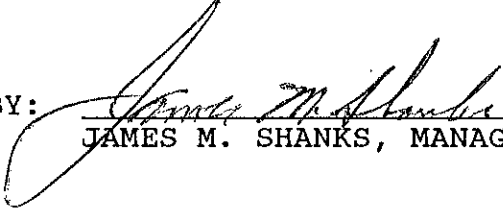
14. IF the GRANTEE fails to comply with the provisions of this EASEMENT, THE EASEMENT shall revert back to the GRANTOR.

15. THE covenants, conditions and restrictions of this easement shall be binding upon GRANTORS successors and assigns and shall constitute a servitude running in perpetuity with the property.

Executed on October 5, 1994.

GRANTOR: MTC STATEN, A CORPORATION


BY:


JAMES M. SHANKS, MANAGER

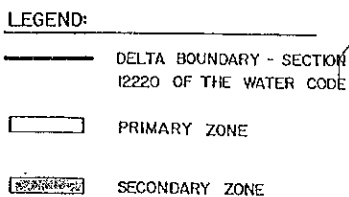
DELTA PROTECTION COMMISSION hereby formally accepts the above described easement.

GRANTEE: STATE OF CALIFORNIA,
DELTA PROTECTION COMMISSION

BY:


DELTA PROTECTION COMMISSION
TOM TORLAKSON, CHAIRMAN

SACRAMENTO-SAN JOAQUIN DELTA



May 13, 1994

PROJECT: CHANNEL ISLANDS
SHADED RIVERINE HABITAT
COUNTY: SAN JOAQUIN

CONSERVATION EASEMENT

THIS EASEMENT is granted this _____ day of _____
1994, by MTC STATEN RANCH, a Corporation, hereinafter called
GRANTOR, to the STATE OF CALIFORNIA, acting by and through the
DELTA PROTECTION COMMISSION, hereinafter called COMMISSION.

WITNESSETH:

WHEREAS, GRANTOR is the record owner of that certain
real property hereinafter described in Exhibit "A"; and

WHEREAS, GRANTOR has signed a Memorandum of
Agreement(MOA) with State Lands Commission(STATE LANDS) and
California Department of Fish and Game(CAL FISH AND GAME)
regarding the long term management of this property; and

WHEREAS, this Easement is consistent with the terms of
that MOA; and

WHEREAS, a portion of the property has scenic, natural and
aesthetic value in its present state as a natural area; and

WHEREAS, GRANTOR is willing to grant a conservation
easement to COMMISSION over said portion of the property,
thereby restricting and limiting the use of the property; and

WHEREAS, GRANTOR and COMMISSION recognize the scenic,
natural and aesthetic value of said portion of the property in
its present natural state and have the common desire to
preserve the natural character of the property and prevent its
use or development for any purpose or in any manner which would
conflict with the maintenance of the property in its natural
condition; and

WHEREAS, GRANTOR wishes to grant to COMMISSION (GRANTEE)
a conservation easement, pursuant to the terms of California
Civil Code Section 815 et seq. to protect the present scenic
beauty, openness and environmentally sensitive quality by
restricting the use and enjoyment of said property (PROPERTY)
by GRANTOR through terms, conditions and covenants herein after
set forth.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and restrictions hereinafter set forth, GRANTOR hereby grants and conveys unto COMMISSION, its permitted successors and assigns a perpetual conservation easement on the land described below for the use and maintenance of riparian and wetland habitat (hereinafter referred to as "Wildlife Habitat Areas") with the terms and conditions stated herein. There is included in this Conservation Easement a right of access in favor of COMMISSION Representatives over any and all Wildlife Habitat Areas for the limited purposes of entering the Wildlife Habitat Areas to verify compliance by Grantor with the terms and conditions of this easement and exercising COMMISSION'S rights under this Conservation Easement. Such right of access is subject to prior reasonable notice except in the event of an emergency.

1. The Wildlife Habitat Areas contain 4 islands (23.1± acres) and are described in Exhibit "A" attached hereto.
 2. GRANTOR and COMMISSION agree that GRANTOR may irrigate vegetation and plant native trees or wetland vegetation on the Habitat Areas, provided that any trees and vegetation planted to the Habitat areas shall be only those:
(a) native trees or vegetation now or hereafter approved by CAL FISH AND GAME as being consistent with the development and maintenance of Wildlife Habitat Areas; or (b) any other trees or vegetation hereafter approved in writing by COMMISSION.
 3. GRANTOR and COMMISSION agree that the provisions of this Conservation Easement are intended to prohibit hunting, public access, and other recreational activities on any of the Wildlife Habitat Areas, and such limitations shall be deemed to be consistent with the objectives and maintenance of the Wildlife Habitat Areas as provided in this Conservation Easement.
 4. Except as otherwise permitted in this Conservation Easement or MOA there shall be no depositing of trash, ashes, garbage, waste or any other material on the Wildlife Habitat Areas.
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 6. This easement is not intended to limit GRANTOR'S participation in other conservation easement programs, including but not limited to the programs designed to create additional wetland or riparian developments or habitat improvements for the benefit of environmentally sensitive plants or animals so long as the proposed program uses are consistent with the terms of this Conservation Easement and MOA.
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10. GRANTOR reserves the right to use the Easement lands for all purposes not inconsistent with this easement.

11. In the event a violation of these covenants, conditions or restrictions is found to exist, COMMISSION may institute a suit to enjoin such violation.

12. GRANTEE agrees to monitor to insure compliance with these covenants, conditions or restrictions of this document.

13. COMMISSION does not WAIVE or forfeit the right to take action as may be necessary to ensure compliance with the covenants, conditions and restrictions of this easement by a prior failure to act.

14. IF the GRANTEE fails to comply with the provisions of this EASEMENT, THE EASEMENT shall revert back to the GRANTOR.

15. THE covenants, conditions and restrictions of this easement shall be binding upon GRANTORS successors and assigns and shall constitute a servitude running in perpetuity with the property.

Executed on _____, 1994.

GRANTOR: MTC STATEN, A CORPORATION

BY: _____

